

Present law (Code of Governmental Ethics) provides for the Board of Ethics (BOE) and the Ethics Adjudicatory Board (EAB). Provides for the composition and the powers and duties of each board.

Present law (R.S. 42:1141) provides that the BOE receives complaints, conducts investigations concerning alleged violations of laws within its jurisdiction, and issues charges based on such alleged violations. Provides that the EAB conducts hearings on the charges to determine whether a violation has in fact occurred and, if a violation has occurred, determines what authorized penalties or other sanctions should be imposed.

Proposed law would have retained present law and additionally required the BOE if it decided to issue charges to issue such charges in a letter sent to the person accused.

Present law provides that if the board does not issue charges within one year from the date upon which a sworn complaint is received or, if no sworn complaint was received, within one year from the date the board voted to consider the matter, then the matter must be dismissed.

Proposed law would have removed the requirement that a complaint be a sworn complaint to trigger the one-year time limit of present law. Otherwise would have retained present law.

Present law (R.S. 42:1163) provides that no action to enforce any provision of present law shall be commenced after the expiration of two years following the discovery of the occurrence of the alleged violation, or four years after the occurrence of the alleged violation, whichever period is shorter.

Proposed law would have provided instead that the BOE shall not vote to issue charges based on an alleged violation of any provision of present law after the expiration of one of the following periods, whichever expires first:

- (1) One year following receipt by the board of the complaint of the alleged violation or, if no complaint was received, the date the board voted to consider the alleged violation.
- (2) Four years after the occurrence of the alleged violation.

Proposed law would have provided that "receipt by the board" means receipt by a member of the board, a member of the staff of the board, or any person employed by or acting on behalf of the board, whichever occurs earliest.

Proposed law would have provided that the four-year period is a peremptive period that may not be interrupted.

Proposed law would not apply to any alleged violation that the BOE has voted to consider or about which the BOE has received a complaint as of the effective date of proposed law.

Would have become effective upon signature of governor or lapse of time for gubernatorial action.

(Proposed to amend R.S. 42:1141(C)(3)(a) and (c) and 1163)

VETO MESSAGE: "Senate Bill No. 418 re-defines when a matter must be dismissed by the Board of Ethics. While Senate Bill No. 418 maintains the current one-year time frame, it defines "receipt" of a complaint as "receipt by a member of the board, a member of the staff of the board, or any person employed by or acting on behalf of the board, whichever occurs earliest."

Members of the Board of Ethics have expressed concerns with this provision to my office, as well as in committee testimony and in a letter to legislative leadership on April 19, 2010. The Chair of the Board wrote that "commencing the one year from the date the staff receives evidence or notice of a possible violation would shorten the investigative time period and thereby put at risk a sound ethics enforcement program."

While I appreciate the need for clarity in the timeline to issue charges, I share the concerns expressed by the Board of Ethics and find current law to be preferable to this bill. For this reason, I have vetoed Senate Bill No. 418 and hereby return it to the Senate."